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Kohl's Department Stores, Inc.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIRBY SPENCER,

Plaintiff,

v.

KOHL'S DEPARTMENT STORES, INC.,

Defendant.

Case No. 2:14-cv-01646-RFB-CWH

ANSWER

Defendant Kohl's Department Stores, Inc. ("Defendant"), hereby answers the Complaint of Plaintiff Kirby Spencer ("Plaintiff"), filed in the United States District Court for the District of Nevada, as follows:

INTRODUCTION

1. Paragraph 1 of the Complaint merely states that Plaintiff basis his Complaint on the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (the "TCPA"), and no response is required. To the extent that a response is required, Defendant denies that it violated the TCPA or any other law.

JURISDICTION AND VENUE

2. Paragraph 2 of the Complaint asserts a legal conclusion to which no response is required.

3. Defendant admits that it conducts business in the State of Nevada. The remainder of the allegations in Paragraph 3 of the Complaint state legal conclusions to which no responses are required.

4. Paragraph 4 of the Complaint asserts legal conclusions to which no responses are required.

5. To the extent the allegations in Paragraph 5 of the Complaint state legal conclusions, they do not require a response and are therefore denied.

PARTIES

6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Complaint and, therefore, denies those allegations.

7. To the extent the allegations in Paragraph 7 of the Complaint state legal conclusions they do not require a response and are therefore denied. Defendant denies the remaining allegations in Paragraph 7 of the Complaint.

8. Defendant admits that it conducts business in the State of Nevada. Defendant denies the remainder of the allegations in Paragraph 8 of the Complaint.

9. To the extent the allegations in Paragraph 9 of the Complaint state legal conclusions they do not require a response and are therefore denied. Defendant denies the remaining allegations in Paragraph 9 of the Complaint.

STATEMENT OF FACTS

10. Defendant hereby repeats, realleges and incorporates by reference its responses above to Paragraphs 1 through 9 of the Complaint.

11. Paragraph 11 of the Complaint asserts legal conclusions, to which no responses are required. To the extent that a response is required, Defendant denies the remaining allegations in Paragraph 11 of the Complaint.

12. Paragraph 12 of the Complaint asserts legal conclusions, to which no responses are required. To the extent that a response is required, Defendant denies the remaining allegations in Paragraph 12 of the Complaint.

1 **PRAYER FOR RELIEF**

2 Defendant denies that Plaintiff is entitled to any of the relief that he seeks in the
3 “WHEREFORE” paragraph of the Complaint. Defendant denies that Plaintiff is entitled to a jury
4 trial. To the extent not otherwise addressed by this Answer, Defendant denies the allegations in the
5 Complaint, including those contained in the headings and subheadings.

6 **AFFIRMATIVE AND OTHER DEFENSES**

7 **FIRST DEFENSE**

8 (Failure to State a Claim)

9 The Complaint, and each purported claim for relief therein, fails to state facts sufficient to
10 constitute a claim for relief against Defendant.

11 **SECOND DEFENSE**

12 (Consent)

13 The Complaint, and each purported claim for relief therein, is barred because Plaintiff
14 consented to and approved all the acts and omissions about which Plaintiff now complains.

15 **THIRD DEFENSE**

16 (Waiver)

17 The Complaint, and each purported claim for relief therein, is barred, in whole or part, by
18 the doctrine of waiver.

19 **FOURTH DEFENSE**

20 (Estoppel)

21 Plaintiff’s claims against Defendant are barred, in whole or in part, by the doctrine of
22 estoppel.

23 **FIFTH DEFENSE**

24 (Statute of Limitations)

25 Plaintiff’s claims against Defendant are barred, in whole or in part. by the applicable statute
26 of limitations for each claim.

SIXTH DEFENSE

(Laches)

The Complaint, and each purported claim for relief therein, is barred, in whole or part, by the doctrine of laches.

SEVENTH DEFENSE

Plaintiff's claims against Defendant are barred, in whole or part, under the TCPA's safe harbor or any other applicable safe harbor.

EIGHTH DEFENSE

(Other Defenses)

Due to lack of information as to matters set forth in the Complaint and each purported claim for relief therein, Defendant has insufficient knowledge or information on which to form a belief as to whether Defendant has additional, as yet unstated, affirmative or other defenses available, and Defendant therefore reserves the right to assert additional affirmative defenses in the event that discovery indicates said defenses are proper.

DATED this 17th day of November, 2014

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